

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

**ILLINOIS-AMERICAN WATER COMPANY, )**  
**and THAMES WATER AQUA HOLDINGS, )**  
**GmbH )**  
**)**  
**Joint Application For Approval Of Proposed )**  
**Reorganization And Change In Control Of )**  
**Illinois-American Water Company Pursuant To )**  
**Section 7-204 Of The Illinois Public Utilities Act. )**

**Docket No. \_\_\_\_\_**

**VERIFIED APPLICATION**

Applicant, Illinois-American Water Company (“Illinois-American”), on behalf of itself and its parent holding company American Water Works Company, Inc. (“American”), and Applicant Thames Water Aqua Holdings GmbH (“Thames Holdings”), on behalf of itself and its parent holding company RWE Aktiengesellschaft (“RWE”) (collectively “Joint Applicants”), by way of this Application filed pursuant to Section 7-204 of the Illinois Public Utilities Act (“PUA”), respectfully request that the Illinois Commerce Commission (“Commission”) approve the transaction described in an Agreement and Plan of Merger (“Agreement”), dated September 16, 2001, by and among RWE, American, Thames Holdings, and Apollo Acquisition Company (“Acquisition Corp.”), a Delaware corporation and wholly owned subsidiary of Thames Holdings created for the purposes of implementing the Agreement. The Agreement provides that Acquisition Corp. shall be merged with and into American, the parent of Illinois-American, subject to obtaining certain regulatory approvals and other conditions. American shall be the surviving corporation and shall continue its corporate existence under Delaware law.

Illinois-American will continue to be a subsidiary of American. A copy of the Agreement is attached as Exhibit A.

In support of this Verified Application, the Joint Applicants state as follows:

THE COMPANIES INVOLVED

1. Applicant Illinois-American, a corporation of the State of Illinois, with its principal office located in Belleville, Illinois, is a regulated public utility within the meaning of the PUA, organized and operating under the laws of the State of Illinois.

2. Pursuant to an affiliated interest agreement ("Services Agreement") approved by the Commission in Docket 88-0303, Illinois-American receives administrative, engineering, financial, human resources, certain management, information systems, risk management, water quality, and other services from American Water Works Service Company, Inc. ("AWW Service"), which is headquartered in Voorhees, New Jersey.

3. American, a corporation of the State of Delaware, with its principal office located at 1025 Laurel Oak Road, Voorhees, New Jersey 08043, is a publicly traded company, organized and operating under the laws of the State of Delaware. American owns the common equity of Illinois-American and AWW Service.

4. Applicant Thames Holdings, with its principal U.S. offices to be located at 1101 Laurel Oak Rd., Voorhees, New Jersey, is a company organized under the laws of the Federal Republic of Germany and a wholly owned subsidiary of RWE, a company organized under the laws of the Federal Republic of Germany, with its principal office located at Opernplatz 1, 45128, Essen, Germany. A description of RWE is attached as Exhibit B.

5. Thames Water PLC ("Thames") is a public limited corporation organized under the laws of England and Wales with its principal office located at 14 Cavendish Place, London,

United Kingdom. Thames operates the water division of Thames Holdings bringing to Thames Holdings its extensive experience and expertise as the largest water and wastewater company in the United Kingdom and one of the largest water and wastewater companies in the world, providing water-related services to over 43 million people throughout the United Kingdom, Australia, China, Indonesia, Malaysia, Puerto Rico, the United States, Turkey, and other countries. A description of Thames is attached as Exhibit C.

### THE AGREEMENT

6. Under the terms of the Agreement, American will become a wholly-owned subsidiary of Thames Holdings which, in turn, is a wholly-owned subsidiary of RWE.

7. Illinois-American will continue to be a subsidiary of American and will continue to exist as an Illinois public utility corporation subject to the jurisdiction and regulation of the Commission. AWW Service also will continue to be a subsidiary of American.

8. The Agreement provides that each issued and outstanding share of Common Stock, par value \$1.25 per share, of American (“American Common Stock”) not owned by Thames Holdings, Acquisition Corp. or American, other than shares owned by any holder who invokes appraisal rights under Delaware law, shall be converted into the right to receive cash as consideration in the amount of \$46.00 per share.

9. The current authorized capital stock of American consists of (i) 300 million shares of American Common Stock, (ii) 1,770,000 shares of Cumulative Preferred Stock, par value \$25.00 per share (the “Preferred Stock”), (iii) 750,000 shares of Cumulative Preference Stock, par value \$25.00 per share (the “Preference Stock”), and (iv) 3 million shares of Cumulative Preferential Stock, par value \$35.00 per share (the “Preferential Stock”).

10. As of September 30, 2001, 99,971,542 shares of American Common Stock (excluding shares held by American as treasury shares), 101,777 shares of the Preferred Stock, 365,158 shares of the Preference Stock and no shares of the Preferential Stock were issued and outstanding. The Agreement requires American to redeem, prior to the closing of the transaction, each outstanding share of the Preferred Stock at a redemption price of \$25.25 per share, plus full cumulative dividends thereon, and each outstanding share of the Preference Stock at a redemption price of \$25.00 per share, plus full cumulative dividends thereon. The Agreement also provides that, at the time of the closing of the transaction, each share of American Common Stock owned by Thames Holdings, Acquisition Corp. or American shall automatically be cancelled and cease to exist and no consideration shall be delivered in exchange therefor.

11. In furtherance of the Agreement, RWE will cause Thames Holdings to have funds sufficient to consummate the transaction.

12. None of the outstanding debt owed and recorded as liabilities on the books of Illinois-American will be affected by the Agreement. Unless retired or redeemed in accordance with its terms all of that outstanding debt will continue to be liabilities and obligations of Illinois-American.

13. Illinois-American will continue to adhere to its tariffs (as they may, from time to time, be revised) and to honor all its customer and regulatory obligations. All affiliated interest agreements approved by the Commission to which Illinois-American is a party will remain in effect unless or until the agreements terminate and/or the Commission approves amended agreements. Accordingly, after the merger, Illinois-American will continue to receive services from AWW Service.

14. The Agreement has been approved by the Boards of Directors of Thames Holdings, RWE, and American.

15. The Agreement is conditioned upon, among other things, obtaining (i) necessary regulatory approvals, including the approval of the Commission, and (ii) the approval of American's shareholders.

#### IMPACT OF THE TRANSACTION

16. The transaction contemplated by the Agreement will not diminish Illinois-American's ability to provide adequate, reliable, efficient, safe and least-cost public utility service. Thames Holdings intends to retain Illinois-American's incumbent local management. Consequently, Illinois-American will continue its current high-quality service. As more particularly described below, the merged entity, by virtue of its greater capital resources, will be better positioned to meet future demands and to ensure that high quality service is maintained.

17. The transaction involving Thames Holdings and American will have no adverse impact on the public interest. To the contrary, the association of these two companies will benefit the customers and employees of Illinois-American and will promote the public interest by combining resources and expertise that will create opportunities for sharing best operating practices.

18. The transaction will permit Illinois-American to utilize Thames' experience and expertise in safeguarding its water systems. Thames, with water operations around the globe, has considerable experience in operating water facilities and systems in regions where security concerns have been a fact of life for some time. Illinois-American, and ultimately its customers, will significantly benefit from the sharing of Thames' extensive experience in developing and implementing comprehensive security measures to protect its customers throughout the world.

19. The need to comply with increasingly stringent water quality and environmental standards, while also rehabilitating and replacing aging water infrastructure, has created substantial demands for capital investment by water utilities. Although American has been extremely successful in raising needed funds, the financial resources and backing of RWE/Thames will enhance Illinois-American's access to capital markets. Enhanced access to capital markets at reasonable costs will be a benefit to Illinois-American and its customers. Greater access to capital will increase Illinois-American's ability to replace aging infrastructure and implement new technology.

20. The association with Thames will further enhance American and its subsidiaries' strong environmental track records. The transaction enhances Illinois-American's ability to respond to environmental challenges. Backed by RWE's annual research and development budget, Thames is conducting several programs in the area of renewable energy. Such programs include the use of solar power, fuel cell technology, wind power and local heat and power generating systems, which offer the potential for ameliorating the continuing increase in the cost of electricity used in the distribution and treatment of water. The goal of Thames and American is to facilitate new and expanded environmentally friendly programs that will benefit Illinois-American and its customers.

21. The Merger will allow a sharing of research and development between American and Thames. American is recognized as an industry leader in the identification and detection of pathogenic organisms, cryptosporidium being a prime example. Thames enjoys a comparable reputation in the area of water quality monitoring and treatment. The combination of these research and development capabilities offers potential benefits to the customers of Illinois-American.

22. The transaction contemplated by the Agreement will have no negative impact on the employees of Illinois-American. The transaction is predicated on growth through achieving accelerated business development activity in regulated and non-regulated businesses. Further, no overlap exists between Thames' current U.S. operations and Illinois-American's operations. The transaction will cause no changes in local staffing or compensation, and the value of employee benefits will not be reduced. In fact, the day-to-day operations and management of Illinois-American are not expected to change as a result of the transaction.

23. The transaction will benefit Illinois-American's employees by providing increased opportunities for training and career development. Like American, Thames firmly believes in equipping its employees with the skills and tools needed to perform at the highest possible level.

24. The transaction will result in no adverse changes in Illinois-American's policies with respect to service to customers, employees, operations, financing, accounting, capitalization, rates, depreciation, maintenance, or other matters affecting the public interest or utility operations.

25. The transaction will not result in the subsidization of non-utility activities by Illinois-American nor its customers. Illinois-American does not engage in a significant level of non-utility activity. To the extent that Illinois-American may engage in such activities in the future, it will continue to maintain its books and records in such a manner as to fairly and reasonably allocate costs and facilities between utility and non-utility activities, so as to allow the Commission to identify those costs and facilities that are properly included for ratemaking purposes.

26. The transaction will not impair Illinois-American's ability to raise necessary capital on reasonable terms and to maintain a reasonable capital structure.

27. Illinois-American will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities.

28. The transaction contemplated by the Agreement will not adversely impact competition because Illinois-American will continue to operate in its current certificated service territories under the same market conditions that currently exist. Due to geographical separation, there is no competition between Illinois-American and any present operating company or other entity owned by Thames Holdings. Indeed, Thames Holdings has no Illinois operations.

29. The transaction will have no adverse impact on existing Illinois-American rates. Illinois-American will continue to operate under its existing tariffs and rate structures (until such time as such tariffs and rate structures are revised in accordance with Illinois law). This transaction will cause no changes in the balance sheet or financial position of Illinois-American.

30. American has a long history of service in the communities where it operates. The philosophy of corporate responsibility to the communities served resides at the core of the RWE, Thames, and American cultures, and this philosophy will continue.

#### JURISDICTION AND REGULATORY APPROVALS

31. This Application is being filed pursuant to Section 7-204 which requires Commission approval for transactions that result:

in a change in ownership of a majority of the voting capital stock of an Illinois public utility; or the ownership or control of any entity which owns or controls a majority of the voting capital stock of a public utility; or by which 2 public utilities merge, or by which a public utility acquires substantially all of the assets of another public utility . . .



220 ILCS 5/7-204(a). In considering a request for approval pursuant to Section 7-204, the Commission is required to find and, for the reasons stated above, the Commission should find in this proceeding, that:

- (a) the transaction will not diminish Illinois-American's ability to provide adequate, reliable, efficient, safe and least-cost public utility service;
- (b) the transaction will not result in unjustified subsidization of non-utility activities by Illinois-American or its customers;
- (c) costs and facilities are fairly and reasonably allocated between utility and any non-utility activities in such a manner that the Commission may identify those costs and facilities which are properly included by Illinois-American for ratemaking purposes;
- (d) the transaction will not significantly impair Illinois-American's ability to raise necessary capital on reasonable terms or to maintain a reasonable capital structure;
- (e) Illinois-American will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities;
- (f) the transaction is not likely to have a significant adverse effect on competition in those markets over which the Commission has jurisdiction;
- (g) the transaction is not likely to result in any adverse rate impacts on retail customers.

32. Section 7-204(c) of the PUA further requires the Commission to rule on: (1) the allocation of any savings resulting from the proposed transaction; and (2) whether Joint Applicants should be allowed to recover any costs incurred to accomplish the transaction, and if so, the amount of costs eligible for recovery and how such costs will be allocated.

33. By this Joint Application, Thames Holdings does not seek recovery of any acquisition premium or transaction costs to accomplish the proposed transaction, and Thames Holdings does not intend to pass such costs through to Illinois-American. Therefore, under Section 7-204(c), the Commission should rule that no costs incurred in accomplishing the transaction are recoverable in rates. Moreover, since Thames Holdings does not currently maintain operations in Illinois, Thames Holdings does not expect synergy savings to result in

Illinois from the proposed transaction. Accordingly, under Section 7-204(c), the Commission should rule that savings reflected in future rate case test years, if any, should be allocated in full to customers.

34. The transaction is not expected to affect Illinois-American's capitalization. As Exhibit J shows, during 2003, the first calendar year following closing of the transaction, Illinois-American's projected common equity and long-term debt ratios are projected to be 44.77% and 55.13%, respectively.

35. Upon closing of the transaction, the capital structure of Illinois-American will be consistent with the provisions of Section 6-103 of the PUA.

#### NOTICE AND COMMUNICATIONS

36. All correspondence and communications to this proceeding should be addressed to the following:

On behalf of Thames Holdings and RWE:

Stephen J. Mattson  
Angela D. O'Brien  
MAYER, BROWN & PLATT  
190 South LaSalle Street  
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On behalf of Illinois-American and American:

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37. Consummation of the transaction and the benefits to be derived therefrom, as discussed above, will be realized more expeditiously if the matter is considered by the

Commission as quickly as possible. Every effort has been and will be made to provide the Commission with all the information and assurances that it needs to promptly consider the transaction. For these reasons, Joint Applicants respectfully request that the Commission process this matter and issue the requested relief on an expedited basis.

#### SUPPORTING DATA, INFORMATION AND MATERIAL

38. To expedite the Commission's review of the proposed transaction, the Joint Applicants submit, along with the Application, an Appendix containing the following data, information, and material.<sup>1</sup>

(a) A copy of the Agreement dated September 16, 2001, by and among RWE, American, Thames Holdings, and Acquisition Corp, attached as Exhibit A;

(b) A description of RWE, attached as Exhibit B;

(c) A description of Thames, attached as Exhibit C;

(d) Income statements and balance sheets for Illinois-American for the year ending December 31, 2000 are set forth in Exhibit D;

(e) A 2000/2001 annual report for RWE is set forth in Exhibit E;

(f) The certificated service areas for Illinois-American are depicted on the map attached as Exhibit F;

(g) A diagram showing the corporate structure of Thames Holdings as it will exist after the Acquisition is attached as Exhibit G;

(h) As noted above, American is the parent company of Illinois-American. Illinois-American has no subsidiaries. A complete listing of the companies with which Illinois-American is affiliated as of the date hereof appears in Exhibit H;

(i) Exhibit I includes a copy of the Services Agreement between Illinois-American and American Water Works Service Company, Inc. If other affiliated interest agreement(s) is (are) proposed in the future, Illinois-American will submit such agreements for any required approval;

<sup>1</sup> Illinois-American was a subsidiary of another corporation (American) before August 15, 1989, the effective date of Section 7-204A of the Act. Accordingly the requirements of Section 7-204A are not applicable to the transaction proposed herein. 220 ILCS 5/7-204A. The above-listed material is supplied, however, for the convenience of the Commission and Staff in reviewing this Application.

(j) Aside from data and information used by the parent in assembling consolidated financial statements, for normal business purposes or under approved affiliated interest agreements, there are no current plans for transfer or use by an affiliate of assets or information now owned or in the possession of Illinois-American. If plans for such transfer or use are developed in the future, the proposed transaction and terms and conditions thereof will be submitted to the Commission for approval;

(k) The most recent five-year forecast showing the capital requirements of Illinois-American is attached as Exhibit J. The forecast includes for each year following the transaction: (i) projected capital requirements; (ii) sources of capital; (iii) the projected capital structure; and (iv) the assumptions underlying the information included in the forecast;

(l) A credit rating report for both RWE and Thames is attached as Exhibit K;  
and

(m) Copies of filings seeking approvals related to the transaction made with other state agencies and the federal government will be provided when available.

**WHEREFORE**, Joint Applicants respectfully request:

- A. That the Commission enter an Order pursuant to Section 7-204 of the PUA:
- (i) approving the transaction described in the Agreement and Plan of Merger by and among RWE, American, Thames Holdings, and Acquisition Corp. dated as of September 16, 2001; and
  - (ii) authorizing Thames Holdings, RWE and any other entity owned or controlled, directly or indirectly, by Thames Holdings and managed by Thames to acquire control of Illinois-American and American; and (iii) determining that no further approval of the Commission is required with regard to the Agreement;
- B. That the Commission expedite the processing of this request in order to permit the transaction to proceed as soon as reasonably possible given the desire to close the transaction and proceed to achieve the benefits of the transaction which, although not required by law for regulatory approval of such transactions, are likely to be achieved; and
- C. That the Commission grant such other and further relief as the Commission may deem appropriate or necessary to effectuate the terms of the Agreement.

Respectfully submitted,

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Counsel on behalf of Thames Holdings and RWE.

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Phone: 312/782-3939  
Fax: 312/782-8585

Counsel on behalf of Illinois-American  
and American.

VERIFICATION

JAMES MCGIVERN, being duly sworn according to law, upon his oath, deposes and says:

1. I am the \_\_\_\_\_ of Thames Water Aqua Holdings GmbH and am authorized to make this Verification on behalf of Thames Holdings.

2. I have read the contents of the foregoing Application and hereby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_

Sworn to and subscribed  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 2001

\_\_\_\_\_  
Notary Public

VERIFICATION

TERRY L. GLORIOD, being duly sworn according to law, upon his oath, deposes and says:

1. I am the President of Illinois-American Water Company and am authorized to make this Verification on behalf of Illinois-American Water Company.

2. I have read the contents of the foregoing Application and hereby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.

Sworn to and subscribed  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 2001

\_\_\_\_\_  
Notary Public